



**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 946**

**[Doc. No. AMS-FV-14-0026; FV14-946-1 FIR]**

**Irish Potatoes Grown in Washington; Modification of the Handling Regulations for Yellow Fleshed and White Types of Potatoes**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** The Department of Agriculture is adopting, as a final rule, without change, an interim rule that extended the temporary exemption of yellow fleshed and white skin (white types) potatoes from minimum quality, maturity, pack, marking, and inspection requirements under the Washington potato marketing order through the 2014-2015 and subsequent fiscal periods. This rule is expected to reduce overall industry expenses and increase net returns to producers and handlers while continuing to give the industry the opportunity to explore alternative marketing strategies.

**DATES:** Effective [INSERT DATE 1 DAY AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Teresa Hutchinson,  
Marketing Specialist, or Gary Olson, Regional Director,  
Northwest Marketing Field Office, Marketing Order and  
Agreement Division, Fruit and Vegetable Program, AMS, USDA;  
Telephone: (503) 326-2724, Fax: (503) 326-7440, or E-mail:  
Teresa.Hutchinson@ams.usda.gov or GaryD.Olson@ams.usda.gov.

Small businesses may obtain information on complying  
with this and other marketing order regulations by viewing  
a guide at the following website:

<http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide>;  
or by contacting Jeffrey Smutny, Marketing Order and  
Agreement Division, Fruit and Vegetable Program, AMS, USDA,  
1400 Independence Avenue SW, STOP 0237, Washington, DC  
20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938,  
or E-mail: Jeffrey.Smutny@ams.usda.gov.

**SUPPLEMENTARY INFORMATION:** This rule is issued under  
Marketing Order No. 946, as amended (7 CFR part 946),  
regulating the handling of Irish potatoes grown in  
Washington, hereinafter referred to as the "order." The  
order is effective under the Agricultural Marketing  
Agreement Act of 1937, as amended (7 U.S.C. 601-674),  
hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

The handling of Irish potatoes grown in Washington is regulated by 7 CFR part 946. This rule continues in effect the interim rule that extended the temporary exemption of yellow fleshed and white types of potatoes from the order's handling regulations through the 2014-2015 and subsequent fiscal periods. This rule allows the Washington potato industry to continue to market yellow fleshed and white types of potatoes without regard to the minimum quality, maturity, pack, marking, and inspection requirements prescribed under the order.

In an interim rule published in the **Federal Register** on May 7, 2014, and effective on July 1, 2014 (79 FR 26109, Doc. No. AMS-FV-14-0026, FV14-946-1 IR), § 946.336 was amended to exempt yellow fleshed and white types of potatoes from minimum quality, maturity, pack, marking, and inspection requirements under the Washington potato marketing order through the 2014-2015 and subsequent fiscal periods.

#### **Final Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are 43 handlers of Washington potatoes subject to regulation under the order and approximately 267 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000 (13 CFR 121.201).

For the 2011-2012 marketing year, the Committee reports that 11,018,670 hundredweight of Washington potatoes were shipped into the fresh market. Based on

average f.o.b. prices estimated by the USDA's Economic Research Service and Committee data on individual handler shipments, the Committee estimates that 42, or approximately 98 percent of the handlers, had annual receipts of less than \$7,000,000.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for Washington potatoes for 2011-2012 was \$7.90 per hundredweight. The average gross annual revenue for the 267 Washington potato producers is therefore calculated to be approximately \$326,021. In view of the foregoing, the majority of Washington potato handlers and producers may be classified as small entities.

This rule continues in effect the action that extended the temporary exemption of yellow fleshed and white types of potatoes from the handling regulations through the 2014-2015 and subsequent fiscal periods. This rule amends the provisions in § 946.336. Authority for the change in the order's rules and regulations is provided in § 946.52.

The Committee does not anticipate that this rule will negatively impact small businesses. This rule will exempt yellow fleshed and white types of potatoes from minimum quality, maturity, pack, marking, and inspection

requirements. Though inspections are not mandatory for such potatoes during the exemption period, handlers may voluntarily choose to have their potatoes inspected. Handlers are thus able to control costs based on the demands of their customers.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0178, Generic Vegetable and Specialty Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

During the exemption period, handlers will continue to be required to report fresh shipments of yellow fleshed and white types of potatoes monthly. While this rule requires a reporting requirement for shipments of yellow fleshed and white types of potatoes, their exemption from handling regulations also eliminates the more frequent reporting requirements imposed under the order's special purpose shipment exemptions (§ 946.336(d) and (e)). Under these paragraphs, handlers are required to provide detailed reports whenever they divert regulated potatoes for

livestock feed, charity, seed, prepeeling, processing, grading and storing in specified counties in Oregon, and experimentation.

Therefore, any additional reporting or recordkeeping requirements on either small or large handlers of yellow fleshed and white types of potatoes are expected to be offset by the elimination of the other reporting requirements currently in effect. In addition, the exemption from handling regulations and inspection requirements for yellow fleshed and white types of potatoes is expected to reduce industry expenses.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Washington potato industry and all interested persons were invited to participate in Committee deliberations. Like all Committee meetings, the December 10, 2013, meeting was a public meeting and all entities, both large and small, were able to express views on this

issue.

Comments on the interim rule were required to be received on or before July 7, 2014. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to:

<http://www.regulations.gov/#!documentDetail;D=AMS-FV-14-0026-0001>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change as published in the **Federal Register** (79 FR 26109, May 7, 2014) will tend to effectuate the declared policy of the Act.

#### **List of Subjects in 7 CFR Part 946**

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

#### **PART 946 - IRISH POTATOES GROWN IN WASHINGTON**



Accordingly, the interim rule that amended 7 CFR part 946 and that was published at 79 FR 26109 on May 7, 2014, is adopted as a final rule, without change.

Dated: August 22, 2014

Rex A. Barnes,  
Associate Administrator,  
Agricultural Marketing Service.

Billing Code  
3410-02 P

[FR Doc. 2014-20409 Filed 08/26/2014 at 8:45 am;  
Publication Date: 08/27/2014]